

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Finance and Tax Committee

BILL: CS/SB 1840

INTRODUCER: Finance and Tax Committee and Senator Deutch

SUBJECT: Health Care

DATE: March 31, 2009      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fournier	McKee	FT	<b>Fav/CS</b>
2.	_____	_____	HR	_____
3.	_____	_____	HE	_____
4.	_____	_____	HA	_____
5.	_____	_____	WPSC	_____
6.	_____	_____	_____	_____

**Please see Section VIII. for Additional Information:**

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|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

This committee substitute creates the Protecting Florida’s Health Act. It levies a \$1 per pack surcharge on cigarettes and a \$1 per ounce surcharge on tobacco products other than cigarettes, including cigars. These surcharges are administered, collected, and enforced in the same manner as the existing excise taxes on these products, and the revenue generated by these surcharges is paid into the Health Care Trust Fund. The committee substitute strengthens the enforcement of existing laws relating to cigarette taxes, and provides for a reward to be paid to persons who report violations.

This committee substitute substantially amends the following section of Florida Statutes: 210.01, 210.04, 210.18, 210.25, and creates the following sections of Florida Statutes: 210.011 and 210.211.

**II. Present Situation:**

Tobacco use in Florida has been linked to higher health care costs, lost productivity in the workforce and premature death. Smoking-caused health costs are estimated at \$6.32 billion annually and productivity losses are even higher. The state of Florida bears over \$700 million of

the health care costs attributable to smoking through its yearly share of Medicaid and other state health expenditures. Total annual smoking-related Medicaid costs in the state are \$1.25 billion. Nineteen and three-tenths of the adults in Florida smoke and 28,600 adults die every year of smoking-related illnesses. Second-hand smoke kills 2,960 adults every year, and 692,000 children are exposed to secondhand smoke in their homes.

Florida taxes cigarettes and other tobacco products. Cigarettes are taxed in Florida at a rate of 33.9 cents per pack of 20 standard cigarettes, and the rate varies proportionately for non-standard cigarettes or packs. These taxes must be paid by the wholesale dealer at the time of the first sale within the state, and 7.3 percent of total collections is paid to the General Revenue Fund as Service Charge. Nine-tenths of one percent is paid to the Alcoholic Beverage and Tobacco TF, and the remaining revenue is distributed:

2.9 percent to County Revenue Sharing

29.3 percent to the Public Medical Assistance TF

1.47 percent, or \$5.6 million, whichever is greater, to the H. Lee Moffitt Cancer Center (through FY 2015-16)

The remainder is paid to the General Revenue Fund. Other tobacco products except cigars are taxed at 25 percent of their wholesale cost, and the proceeds are paid to the General Revenue Fund.

Total cigarette tax collections for FY 2007-08 were \$411.9 million. The current forecast for FY 2008-09 is \$405.0 million. The tax on other tobacco products generated \$31.8 million in FY 2007-08 and is expected to yield \$30.5 million in FY 2008-09.

Florida began taxing cigarettes in 1943. The tax rate was increased in 1949, 1963, 1971, 1977, 1986, and, most recently in 1990. Other tobacco products were first taxed in 1985. Tobacco products are subject to federal and state taxes, and some states provide for local taxes. The average cigarette tax rate for all states, including the District of Columbia, is \$1.19 per pack, ranging from 7 cents per pack in South Carolina to \$2.75 per pack in New York. Cigarette tax rates in South Carolina, Mississippi, Missouri, and Virginia are lower than in Florida. Many states have increased cigarette taxes in recent years; Florida, California, Mississippi, Missouri, North Dakota, and South Carolina are the only states that have not raised their cigarette tax rates in the past 10 years. Federal tobacco taxes are being raised on April 1, 2009, to provide additional funding for the Children's Health Insurance Program. The cigarette tax is increasing from 39 cents per pack to \$1.01 per pack, and other tobacco product taxes are increasing by varying amounts.

Cigarette and other tobacco products taxes are administered, collected, and enforced under ch. 210, F.S., by the Department of Business and Professional Regulation. The tax on cigarettes must be paid by the wholesale dealer at the time of the first sale within the state, and it is paid by affixing a stamp to each package of cigarettes. Tax evasion, which is evidenced by possessing fewer than 50 cartons of cigarettes that have not been stamped, is a first degree misdemeanor for the first offense. After one conviction, a subsequent offense is a third degree felony, as is a first conviction for more than 50 cartons. In addition to these penalties, anyone in possession of unstamped cigarettes is liable for the tax imposed on the cigarettes, and anyone who knowingly fails to comply with the legal requirements is subject to a fine of \$1,000 or 5 times the retail

value of the product involved, whichever is greater. Creating counterfeit stamps, with intent to defraud the state, is a third degree felony

### III. Effect of Proposed Changes:

The proposed substitute for SB 1840 creates the Protecting Florida's Health Act. It begins with legislative findings concerning the costs to the state of tobacco consumption. It creates a surcharge on a standard 20-cigarette pack of \$1, and levies a proportionate surcharge on other sizes and quantities of cigarettes. This surcharge is administered, collected and enforced in the same manner as the excise tax imposed under s. 210.02, F.S., and is paid into the Health Care Trust Fund. Section 210.01 and 210.04, F.S., are amended to conform. The committee substitute amends s. 210.18 to strengthen the penalties for tax evasion. It deletes a provision that lets a violator pay the tax plus a penalty equal to the amount of the tax in lieu of misdemeanor penalties, and increases the penalties for first and subsequent violations of possessing unstamped cigarettes or counterfeit cigarettes. It also creates a reward for information about cigarette tax violations.

The committee substitute also creates a surcharge on tobacco products other than cigarettes, including cigars. The surcharge is \$1 per ounce, except for small cigars, which are subject to the surcharge on cigarettes weighing no more than 3 pounds per thousand. This committee substitute does not repeal the existing excise tax exemption for cigars.

The bill provides for a floor tax on existing inventory of cigarettes and other tobacco products held by manufacturers, distributors, wholesalers and vendors in the state as of the effective date of the act.

The bill's effective date is July 1, 2009.

#### **Other Potential Implications:**

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

#### D. Other Constitutional Issues:

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

The revenue estimating conference has determined that SB 1840, which increases the tax on cigarettes by \$1 would generate an additional \$871.3 million in 2009-10 and recurring. The surcharge on other tobacco products has not been analyzed by the revenue estimating conference.

**B. Private Sector Impact:**

This committee substitute will increase the cost of cigarettes and other tobacco products. Some users of these products will likely stop using them, others will switch to untaxed products, either obtained legally from Seminole retailers or illegally from smugglers or out-of-state sources. It is expected that the long run impact of the increased cost would have a greater impact on tobacco consumption in Florida.

**C. Government Sector Impact:**

To the extent that tobacco product consumption decreases, state expenses for Medicaid and other health care programs will decrease. Because fewer taxed cigarettes and other tobacco products will be sold, less revenue will be distributed to the Alcoholic Beverage and Tobacco Trust Fund, the Public Medical Assistance Trust Fund, and County Revenue Sharing.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Finance and Tax on March 31, 2009:**

The committee substitute levies a surcharge on cigarettes and other tobacco products. It directs all additional revenue to the Health Care Trust Fund instead of distributing it among various health-related funds. It strengthens enforcement of cigarette tax enforcement and provides a reward for information about sales of unstamped cigarettes.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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